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## APPENDIX E

### INTERIM RECOMMENDATIONS

During the course of our study, the PSI team made a large number of interim recommendations to the MCPD. The MCPD was very receptive and accepted all of our recommendations. It took some action to implement most of the recommendations immediately. For other recommendations, the MCPD's response appeared to be limited only where it lacked the administrative resources to take action or to consider the most effective means to implement certain recommendations.

The MCPD should:

- ✓ Provide Judge Campbell with data regarding budget, caseload, workload, training program, and ethical issues similar to that provided to the study team.
- ✓ File motions, especially motions to compel discovery and sanctions in appropriate cases and track results in data fields.
- ✓ Request the commitment of the court to appropriately use the full range of sanctions provided by Arizona law, up to and including dismissal of the case, to compel early and complete discovery.
- ✓ Develop a plan to meet rule 8 requirements in one quad, consistent with Judge Campbell's pilot project, including projecting the impact on all other MCPD functions, what the MCPD needs from all other criminal justice entities, e.g., discovery (timely supplemental reports, efficient witness lists, and permission to contact witnesses directly with notice to the prosecution).
  - ✓ See Florida Rule of Criminal Procedure 3.220 re categories of witnesses
- ✓ In order to reduce the number of cases subject to the concern of the Supreme Court of Arizona, provide funds for the MCPD and MCAO to staff the Initial Appearance Court and enhance the Pretrial Services Agency.
  - ✓ This would not only reduce caseload at an earlier time, but would extend the time for remaining cases under rule 8. We envision including the full police report in the pretrial services materials with criminal histories and the pretrial services work up.

A follow-up court proceeding might be necessary a few days later as soon as charges are formally filed.

- ✓ Consider inviting a few top criminal justice officials, including the courts and OMB, to a retreat after laying the groundwork for it.
- ✓ Enlist the support of the court in dealing with the MCAO regarding the following issues:
  - ✓ Request the MCAO to identify witnesses on its witness lists that it intends to call at trial in order to make the most efficient use of limited MCPD resources and speed the disposition of cases.
  - ✓ Request the MCAO to commit to the principle of early and complete open file discovery, limited only by privileged matters.
  - ✓ Request the MCAO to adopt a more flexible plea negotiation policy and make more realistic plea offers earlier in the case.
- ✓ Request that the court and MCAO, along with the MCPD, communicate with law enforcement agencies to insure their cooperation in providing reports and scheduling interviews that efficient manner, including time and location.
- ✓ In consultation with the study group, use the Delphi Method to begin to develop a case counting and weighting system (and attendant job and assignment descriptions, personnel classifications, performance expectations and formula to generate a budget request).

## **ORGANIZATIONAL STRUCTURE**

1. The MCPD should consider adjusting its management and operational structure in order to promote increased accountability, more effective communication and cooperation, and to ensure that responsibility and authority are appropriately delegated to the lowest level practicable.
  - 1.1\_ The MCPD should develop a broader Senior Management Team (“SMT”) by delegating responsibility coupled with adequate authority for decision-making and implementation.

- 1.2\_ The design should include: (a) an Executive Team consisting of the Public Defender and staff that manages office operations, attorney operations and external relations at the highest level and report directly to the Public Defender; and (b) a team that is responsible for developing the strategic approach of the department and would include the executive team and the leaders of the functional groups.
  - 1.3\_ Among other items, the SMT should be responsible for policy and practice relating to minimum legal practice requirements, workload and staff allocation, training, automation (including data collection), personnel (including development of a classification plan for attorneys and other staff) and other office initiatives.
  - 1.4\_ As the basis for redesigning its management structure, the MCPD should define its operational and functional groups. (Support services should be represented in these functional groups.) In making this determination, the MCPD should consider: (a) assignments, such as appellate and felony groups, and (b) job types, such as support staff. In order to be accountable, the leaders of these groups must be granted authority commensurate with their responsibility. The operational and functional leaders should be responsible for implementing the strategic decisions of the SMT. The SMT should be responsible for ensuring that office practices are applied consistently throughout the organization as deemed appropriate.
2. In seeking to realign its management and operations, the MCPD should rely upon end-user feedback to the extent possible.
  3. The MCPD should continue its extensive efforts to develop attorney and support staff performance standards and measures with input from line staff and supervisors. These standards should be consistent with appropriate NLADA performance standards where appropriate.
  4. The MCPD should consider expanding its current specialized units (e.g., major felonies, DUI, mental health), and creating additional ones (e.g., preliminary hearings and misdemeanor trials).

5. The MCPD should emphasize front-loading its internal practices and procedures by experimenting with realigning its legal and support staff operations and reallocating its staff, e.g., separating preliminary hearings and felonies as it has begun to experiment with in its Group E pilot project. Also, the MCPD should assign cases, particularly major felonies, to its specialized units earlier.

## **MECHANISMS FOR DEALING WITH EXCESSIVE CASELOADS**

6. The MCPD should not continue to require its attorneys to maintain caseloads in excess of Arizona Supreme Court maximum caseload standards, if in the professional judgment of the Public Defender, such caseloads are actually excessive. It is imperative, however, that prior to seeking to withdraw from an excessive caseload, the Public Defender determine whether modifying departmental organization and priorities, reallocating available resources, and seeking additional resources and systemic changes would, in a timely manner, reduce his attorneys' caseloads to reasonable, professional levels. If circumstances permit, the MCPD should seek external assistance in establishing a mechanism to deal with excessive caseload, including the development of appropriate standards, procedures and cost-effective remedies, prior to these problems rising to crisis proportions.

## **RECORD-KEEPING AND INFORMATION FLOW**

7. The SMT should reevaluate the purpose and scope of MCPD data collection. The SMT should assign a task force to create report formats in conjunction with end-users. These reports should include: (a) case specific reports, (b) summary management reports reflecting aggregate data necessary for day-to-day management, and (c) executive level management reports that allow ready assessment of the overall effectiveness of the office.
  - 7.1 The MCPD collects more detailed information than any other defender office we are aware of. Much of this data is outward focused, that is, it is collected in response to numerous requests from other agencies or to provide the MCPD with a foundation to respond to external issues. In order to focus internally and operate more effectively, the MCPD would benefit from a reduction in external issues or an increase in administrative and technical staff.

8. The MCPD should secure necessary funding for the development and implementation of client and case management database applications to provide timely information, reduce the amount of paperwork, including the number of times papers change hands.
9. The MCPD should increase the efficiency of handling information and documents.
  - 9.1 The MCPD should reconsider whether they need to file minute entry documents in attorney case files.
    - A. As suggested by the consulting team, the MCPD has reexamined and revised their process of using minute entries to update their record system ensuring that more accurate and timely data entry. Most of the important information available from the minute entry documents is now being provided in a more timely manner (to a staff person near the attorneys' work area) by the coverage attorney or is available online.
  - 9.2 The MCPD should review its procedures for opening, filing, retrieving, closing, and storing case files so as to improve the efficiency of access from initial file creation through transfers to the appellate division.
  - 9.3 The MCPD should consider purchasing files that would enhance the efficiency of MCPD staff by eliminating the need to punch holes and sort through voluminous materials to locate and retrieve documents.
    - A. The MCPD is currently researching the associated costs and potential savings.
  - 9.4 The MCPD should make available to the attorneys, in electronic form, the client interview forms completed by the initial services personnel. The interview questions should be expanded to include questions that will facilitate earlier resolution of cases and meet NLADA standards.
  - 9.5 Investigative and Client Services requests should be automated to improve attorney-staff communication, supervision, and measure workload.
    - A. The MCPD is currently considering developing this as a function of a case management system.

**TRAINING**

10. The MCPD should continue to refine and expand its training programs, especially given the relative lack of experience of its staff and its relatively high turnover rate. Specifically, increased and renewed emphasis should be given to subjects, including: professionalism, court procedures, how to effectively and professionally handle a heavy caseload, and management and leadership. MCPD's manager training should more explicitly and completely reflect the organization's values and philosophy.
  - 10.1 The MCPD's training should continue to ensure that all staff understand that departmental policy, as well as professionalism, requires courteous and respectful treatment of clients and court personnel.
11. The MCPD should use preliminary hearings and misdemeanor trials in the Justice Courts as part of the training experience for entry-level MCPD lawyers, with appropriate coaching and supervision.

**THE NEED TO FRONT LOAD THE CRIMINAL JUSTICE SYSTEM**

12. The MCPD should take a leadership role in encouraging the courts to assign the Superior Court case number and trial judge for all felony cases at the initial appearance or as soon thereafter as practicable. As soon after changes in court procedure make it feasible, the MCPD should assign the trial attorney at initial appearance.
  - A. The current court case-numbering and assignment system creates significant inefficiencies not only for the MCPD, but for the entire criminal justice system. Currently, cases may have a Justice Court case number and/or a Superior Court case number. The current system engenders confusion and duplication of work, not only in the numbering of cases, but promoting reliance on alphabetical or other less-efficient filing methods.
13. The MCPD should continue its efforts to obtain data electronically. The MCPD should encourage Maricopa County and other criminal justice agencies to provide the MCPD with records electronically, including: jail booking and inmate records, police reports (DRs), probationer records, and case docket information.

14. The Clerk's office should give the MCPD access to the clerk's database in order to enter attorney changes directly.
15. With clear support from the County administration, the MCPD should take a leadership role in encouraging the courts and prosecution to address criminal justice system problems originating with the various police departments, such as delays in providing supplemental police reports.
16. The MCPD should encourage a system-wide study of the impact of high student loan debt and low attorney compensation on the MCPD's and MCAO's ability to attract and retain experienced attorneys. This study should make recommendations, including the appropriate adjustment of compensation.